IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.4397 of 2005
In
Criminal Application No.4396 of 2005

M/s. Control Print (India) Ltd. Applicant
Vs.
M/s. Hytaisun Magnetics Ltd. & ors. Respondents

Mr.Subodh Desai for applicant.
Mr.S.V.Marwadi for resp.nos.1, 2 and 4.
Mr.D.P.Adsule, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 3, 2007.

P.C.

1. This is an application for condonation of delay caused in filing Criminal Application No.4396 of 2005 praying for special leave to appeal under Section 378(4) of Cr.P.C. As per the office note the delay caused is of 685 days.

2. C.C.No.660/S/1996 was filed by the applicant - company for an offence punishable under Section 138 of the Negotiable Instruments Act before the learned Metropolitan Magistrate's 28th Court, Esplanade, Mumbai and the verification was done sometimes in October 1996. By order dated 2/6/2003 the complaint came to be dismissed on account of the complainant remaining absent and consequently the complaint

having been dismissed under Section 256 of Cr.P.C., the accused came to be acquitted.

3. The delay caused in approaching this Court is sought to be justified on the grounds that Shri Uma Shankar Rathi, who was holding the post of General Manager with the applicant - company was preoccupied due to business exigencies and, therefore, the company could not approach in time.

4. The Roznama of C.C. No.660/S of 1996 placed on record shows that out of about 32 adjournments the complainant was absent on 22 dates and from February 2002 onwards the complainant was absent on 4/2/2002, 25/2/2002, 3/6/2002, 27/1/2003, 21/4/2003 and finally on 2/6/2003 the complainant as well as its Advocate were absent and, therefore, the learned Magistrate dismissed the complaint under Section 256 of Cr.P.C. Even to approach this Court there is an inordinate delay of 685 days. The applicant is a registered company under the Companies Act, 1956 and the justification that Mr.Rathi was busy cannot be a reason to condone the delay of almost two years. The company has displayed negligence abundantly before the trial Court as well as in approaching this Court

belatedly. I am, therefore, satisfied that the reasons given in support of this application do not make out good and sufficient reasons to condone the delay.

5. Hence the application is rejected.

(B.H.MARL